

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARTHA BERNDT, et al.,
Plaintiffs,
v.
CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,
Defendants.

NO. C03-3174 TEH

ORDER VACATING AUGUST 14,
2006 CASE MANAGEMENT
CONFERENCE AND SCHEDULING CASE
MANAGEMENT CONFERENCE FOR
NOVEMBER 13, 2006

The Court is in receipt of the parties' joint case management statement filed on August 7, 2006. Upon careful review of the parties' submission, the Court does not find it necessary to conduct a case management conference as scheduled on August 14, 2006. Based on the parties' representation that they have not agreed to complete certain outstanding discovery, including the depositions of four named plaintiffs and Defendants' person most knowledgeable with respect to inmate behavior programs, until November 3, 2006, and the additional uncertainty over whether the discovery to be completed by November 3 represents all of the discovery needed by the parties to brief class certification issues, this Court finds it would be premature to set a briefing and hearing schedule for Plaintiffs' anticipated motion for class certification. Accordingly, IT IS HEREBY ORDERED that:

- 22 1. The August 14, 2006 case management conference is VACATED.
23 2. The parties shall appear for a further case management conference on **Monday,**
24 **November 13, 2006, at 1:30 PM.** The Court anticipates setting a briefing and hearing
25 schedule for Plaintiffs' class certification motion at that time, but it will not do so if
26 significant uncertainties in the discovery schedule remain.
27 3. The parties shall file a joint case management conference statement on or before
28 **Monday, November 6, 2006.**

1 Finally, the Court advises the parties that it does not find the parties' suggestions
2 regarding the propriety of certifying a class in this case to be appropriate subject matter for a
3 case management conference statement. To the contrary, if Defendants believe that class
4 certification is inappropriate, the proper vehicle in which to raise such objections is
5 Defendants' opposition to Plaintiffs' class certification motion, assuming that such a motion
6 is ultimately filed.

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8 **IT IS SO ORDERED.**

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10 Dated: 08/11/06


11 THELTON E. HENDERSON, JUDGE
12 UNITED STATES DISTRICT COURT